IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRTIETH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

and
THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 18334 of 1997

Between:

M/s.Sree Balaji Cable Industries, Anantapur, rep. by

Its Managing Partner D.V.Reddy.

..... PETITIONER

AND

The Commercial Tax Officer-II, Anantapur.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ or order or direction more particularly one in the nature of Writ of Mandamus directing the respondent to issue refund order of Rs.2,10,802/- along with interest at the rate of 12% per annum from the expiry of two months from the date of granting order i.e., 2-6-94 as per Sec.33-E of the A.P.G.S.T. Act.

Counsel for the Petitioner : MR.B.A.PADMANABHA RAO

Counsel for the Respondent : GP FOR COMMERCIAL TAXES

The Court made the following :

ORDER : (per Hon'ble Sri Bilal Nazki, J)

Heard learned Counsel for the parties.

The grievance of the petitioner is that he was charged tax at the rate of 5.5% whereas he had to pay tax at the rate of 4% and an order was passed on 20.03.1995, whereby it was assessed that he has paid excess tax of Rs.1,17,840/-. He moved an application on 11.4.1995 before the authorities for refund of the excess amount. Counter does not disclose whether any application for refund is pending, but it states that the petitioner had collected tax at the rate of 5.5% and not 4%, therefore it was liable to be forfeited in terms of Section 30-B of the Andhra Pradesh General Sales Tax Act, 1957 (for short 'the Act'), but no order under Section 30-B of the Act appears to have been passed.

Since the petitioner has categorically stated that he had moved an application for refund on 11.04.1995, which has not been decided and since the respondents also have not denied that such an application had been filed, we dispose of the Writ Petition, directing the respondents to pass orders on the application for refund, within two weeks from the date of receipt of a copy of this order. No costs.

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(BILAL NAZKI, J)

30th September, 2004.

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(S.ANANDA REDDY, J)

ajr

To

1 The Commercial Tax Officer-II, Anantapur.

2 Two C.Cs. to the GP for Commercial Taxes, High Court buildings, Hyderabad

(O.U.T)

3 Two C.D. copies.